



Planning Board  
November 19, 2015  
Town Hall 10:00 am

### **Regular Monthly Meeting Agenda**

**Call to Order:**

**Approval of the Minutes:**

**Public Comment:** Please state your name and address for the record.

**Approval of the Agenda:**

**Old Business:**

- 1) Present draft UDO Articles 1, 2, and 3- Holland Consulting

**New Business:**

- 1) Conditional Use Permit process text amendment
- 2) Variance text amendment
- 3) Impervious Surface text amendment
- 4) Bedrooms text amendment

**Other Business:**

- 1) Board Member Reports
- 2) Staff Reports
- 3) Updates from Council Meeting (rezoning request, Locus Development, CUP for 211 tract)

**Adjournment**

MINUTES  
PLANNING BOARD  
October 15, 2015  
OAK ISLAND TOWN HALL

Present: Chairman Ted Manos, Vice-chairman Denise Pacula, members Cathy Bowes, Robert Carpenter, Helen Cashwell, Bob Germaine and Clay Jenkins, Zoning and Planning Administrator Jake Vares and Town Clerk Lisa P. Stites, CMC.

Chairman Ted Manos called the meeting to order at 10 a.m. The Chairman gave the invocation and led the Pledge of Allegiance to the flag.

Agenda amendments: Chairman Manos changed the order of New Business, so that Dale Holland's discussion of the Unified Development Ordinance would be handled first.

Regarding the September 17, 2015 Minutes, Mr. Germaine noted some corrections. Under New Business, Mr. Germaine said he believed the sentence that reads "The property tax card stated there was 10.86 acres...and 2.4 acres were residential" should use "were" instead of "was." There were also two typos to be corrected.

**Ms. Cashwell made a motion to approve the Minutes from the September 17, 2015 meeting as corrected. Mr. Germaine seconded and the motion carried unanimously.**

**Ms. Bowes made a motion to approve the agenda as amended. Vice-chairman Pacula seconded and the motion carried unanimously.**

Old Business:

1. Text Amendment (grocery stores): Chairman Manos reviewed the proposed amendments, a copy of which is attached and is hereby made a part of the Minutes. Mr. Germaine suggested adding restaurants as well. Mr. Vares said that it might be confusing if restaurants were on the Table of Uses twice; restaurants are already permitted through the Table of Uses. **Ms. Cashwell made a motion to approve the definition of uses as proposed and to include the additional uses set forth in Table 116. Mr. Carpenter seconded the motion and it passed unanimously.**

New Business:

1. Unified Development Ordinance (UDO): Dale Holland with Holland Consultants gave a status update on the UDO process. Mr. Holland distributed a draft outline for the UDO. Several of the sections reference state law and can be worked on already. Later in the process, the Comprehensive Plan will need to be finished or almost finished in order to move forward with drafting the UDO. Mr. Holland said he would like to give the Board Articles I through IV in November with the plan to begin review of those sections in January. Ms. Cashwell asked why all of the penalty provisions would be in one section. Mr. Holland said that tends to lead to a lot of repetition, and organizing them into one section would make them easier to enforce, easier for the citizens to understand, for staff to manage, etc. He also said the outline just had the general headings and that there would be subheads, lots of cross references and more graphics than our current ordinances have. Mr. Holland also mentioned the public input meetings for the Comprehensive Plan process – November 5 and 12 in Council Chambers at Town Hall. People do not have to attend both meetings, but he hopes they will.

2. Town Attorney Brian Edes gave an overview of the quasi-judicial process. All witnesses to speak must be sworn before giving testimony. Each party would be subject to cross-examination by an adverse party. Mr. Edes said the Board members have to be fair and impartial and base their decisions on the competent evidence presented during the hearing. He asked the Board members if they had a financial

interest; there were none. He asked if they had any ex parte communication; there was none. He asked if anyone had made a site visit and if there was anything about that which would make them unable to be fair and impartial – Clay Jenkins visited the site, Chairman Manos and Ms. Bowes each said they drove by on N.C. 211, Mr. Germaine said he also drove by and that the Town signs do not correspond to the actual location. All of the Board members confirmed that they could remain fair and impartial. Mr. Edes suggested starting with a staff presentation, followed by the applicant and then anyone else who wishes to speak. Chairman Manos said he was going to have questions regarding the applicant's ability to complete the project as the property is owned by the bank. Mr. Edes said that would be an appropriate line of questioning. The Town Clerk administered the oath to all those who indicated they would be giving testimony. **Ms. Cashwell made a motion to open the hearing at 10:35 a.m. Vice-chairman Pacula seconded and the motion passed unanimously.**

Chairman Manos: Mr. Vares, please give us your initial presentation. Tell us what you have.

Jacob Vares, Zoning and Planning Administrator: Alrighty. I'll go over the generalities first, and I think a lot of that will address some of the things that we heard just a moment ago, and uh, then we can have the applicant respond and have a discourse.

Mr. Edes: Before you start, just so the Minutes are clean, will you just state your name and title?

Mr. Vares: Jacob Vares, Zoning and Planning Administrator for the Town of Oak Island.

Mr. Edes: Thank you sir.

Mr. Vares: So, this is a phased-development plan. You're probably more used to seeing a site-specific development plan, where you see specific lot lines, and individual parcels, things like that. This is a phased-development plan. What the applicant, or the developer is trying to do is obtain their vested rights, which is fine. This is actually covered in Section 18-303 and 304 of our zoning ordinance, and, um, it allows him to submit a site-specific plan, which is what you would normally see for smaller developments or single parcels that want to be subdivided, things like that, but for large developments like this, that's over 100 acres, and they're just at the beginning process, uh, you see a phased-development plan, which is why you don't get the specificity that you're used to. If approved by Council, uh, they will acquire vested rights which will last up to two years or up to five, depending on the Council vote, and it just has to be a simple majority vote. Um, now, um...

Chairman Manos: Let me, let me clarify for the record. It's technically up to two years, once they approve it, and then they could conceivably make an application for an extension of that, which the extension could be an additional five years, pursuant to, to my understanding, a plan that was just approved, last week.

Mr. Vares: They can get two years automatically right off the bat, but they can also get up to five years if Council specifies that.

Chairman Manos: They can, to my understanding, get an extension of five years...

Mr. Edes: Up to five years.

Chairman Manos: ...an additional, in addition to the two, and that's what I want to clarify, because the wording is not correct, and you know, we had a discussion about that, and my understanding is not, just within the last month, the Town Council has approved, is that correct, an extension of five years? Denise?

Vice-chairman Pacula: Yes.

Mr. Edes: Tuesday night.

Vice-chairman Pacula: Tuesday.

Chairman Manos: Okay.

Mr. Vares: Um.

Chairman Manos: So once that's done it's precedence, it's a done deal so they could conceivably go for seven.

Mr. Vares: You cannot waive, uh, the applicant's right to have a vested right as a condition of approval. That's, it's a General Statute. That is not allowed. And um, the only way their vested right would go away there's a few items in the General Statutes that highlight. I don't think they would apply to this case, it's if the applicant intentionally misleads or misrepresents their application, or if for some reason, they found

some unknown natural hazard that would endanger the community, like a giant sinkhole or something like that, then, uh, then they would lose their vested right. But other than that, which is, you know, they wouldn't apply. So, um, since this is a phased-development plan, this is Section 18-660 of our zoning ordinance, um, it just specifies, um, that you need to show the intensity of use and uh the parcels, at a minimum, showing like the boundaries of the project and, uh, what the use is going to be used for, which their phased-development plan, large document and also the 11x17 in your packet, shows. So, from my reading of that zoning ordinance, they do meet that. And finally, uh, all the proper public notification has been done. All the adjacent property owners have been notified by official mail. We have a record of all that. A sign has been put out on the site, specifying when this meeting would be, the date, all that sort of stuff, so all those, not just the statute requirements but zoning ordinance requirements that conform to the statutes have been met, and so now we're here. From a staff opinion level, I'm fine with, I'm not opposing the development. I think it might be best if all the specific questions regarding the road and the infrastructure and that sort of thing be directed towards the applicant.

Chairman Manos: Okay.

Mr. Edes: Mr. Chairman, does the applicant – would you wish to cross-examine?

Chairman Manos: Then, gentlemen, whichever of the applicant desires to speak first, uh, please introduce yourself, uh, give your address, uh, and uh, give your testimony.

Dan Weeks: Yes, good morning Mr. Chairman, members of the Board. My name is Dan Weeks. I am a landscape architect. I work for Paramount Engineering. We're an engineering and planning firm in Wilmington, North Carolina. Just for the record, I have been sort of working in this area for the past 30 years and have been very blessed in my career to work on numerous projects in this area, so, um, I welcome the opportunity to provide testimony. I'll go over some of the technical details with regard to this site. Just some numbers. The site acreage is 162 acres. We have had Land Management, an environmental group out of Wilmington that I have worked with for years, assess the property for environmental concerns and wetland assessment. What you see on this piece of property is approximately 38 acres of wetlands on your exhibit, which are, I think, in green. When we looked at this project and we first started out talking to DRAPAC, is that you go through due diligence, you look at utilities, you look at topo, you look at zoning. This site is zoned commercial low density. Um, and if I may, as you look at sort of the surrounding landscape and the zoning in this area along the corridor and at the intersection of Midway and Middleton Avenue is that there is a tremendous amount of commercially-zoned property. With commercial properties, you tend to want to have visibility. They want to be seen from space. And so with this site, it was a little bit different. We do have frontage along 211, but the wetlands provide a means of not being right on the corridor, so I think that was a very important part of the initial planning stage of this. We looked at sort of, ok, what do we do with this? We saw this as a piece of transitional development. Commercial is such that, there's, um, to me, there's just so much commercial property in this area. Is it viable? Will it be successful? Um, and I think what we sort of started to look at was, well, what is this piece of property? And when you look at that, you have, you know. A one-access way into the property through the wetlands. We're also looking at, you know, connectivity, where it's feasible, to adjacent properties, to improve that. Um, and so do we rezone the property from C-LD and start to figure out where are the parcels, what do we do with this, do we zone everything, um, and make sort of a determination and then assessment of that. We sat down with staff and sort of looked at ok, what are our options here. And there was an option with the phased-development plan, the PUD-C. What that does is it gives us the flexibility to focus on the big picture. By right, if we were to go ahead and max the density out with this piece of property, we'd be able to basically be at 940 units or 5.8 units per acre. What we see this project having is a variety of price point and product type. We see a commercial component with Tracts A, B and C being sort of a mixed-use, town square type of mentality, where, um, you know, it's sort of livable, and it sort of becomes a destination and it's a core piece. I don't think we're going to be serving, you know, the larger regional area, but it would be a support device for, uh, the residents that live here. Uh, you know, we do have about 32,000 square feet of retail. Um, we've shown some potential pond locations. But I think what this gave us was the opportunity to sort of put the kit of parts together in

a manner that creates flexibility. It's the framework for the project. What I often see is, you start to do projects and you get site specific and then you put yourself into a corner where there's no sort of, are we really ready to do this. And I think the mentality of the DRAPAC group is, let's assess the property. Let's do our due diligence and then from that standpoint, let's go ahead and when the time is right and we've done our research and our market study, then we'll go ahead and put that on the ground so that momentum can be sustained for this project and it can be successful. Um, we, we believe that, we're proposing 719 units. We're not maxing out the density and that's a critical thing to know. We also have provided sort of a lot matrix exhibit for the single-family lots and our lot types. We don't want it to be all one product, so to speak. We'd like to have a mix. We'd like to have integrated open space, um, throughout the project, where it's not just your standard big sort of core in the middle of it. We see that often, way too many times. We see passive recreation, active recreation where it's feasible, um, walkways and those kind of things that sort of give it a great sense of community. Um, I will let, sort of Kevin talk to the specific of the DRAPAC group, but, um, but I think that this provides a means where we feel like there's great flexibility, and we will have to go through the process again once we start to peg down parcels. We'll be back before this Board, I believe, and we'll also have to obtain all our local and state permits, so it's not like we're going to put this on the ground tomorrow. And if I may approach, before Kevin Cardinal of DRAPAC gets up here, I would like to hand out a packet of information, if I could. Chairman Manos: Please do. Can you identify what the package of information is please?

Mr. Weeks: I will let Kevin do that.

Ms. Cashwell: Thank you.

Mr. Vares: Brian, do we need to enter this into evidence?

Chairman Manos: Yeah, we do.

Mr. Edes: After it's authenticated. Excuse me.

Vice-chairman Pacula: Thank you.

Mr. Vares: And the packet, the agenda packet with their application as well?

Mr. Edes: Whenever the applicant...I'm going to try to find out who filled that out but at some point, if they don't introduce it, I'll ask you to authenticate it.

Mr. Vares: Okay.

Mr. Edes: The application.

Chairman Manos: Now Mr. Weeks, you're still under oath, cause we've a bunch of questions to ask of both of you, uh, so please state your name for the record and give us your address.

Kevin Cardinal: Good morning Mr. Chairman, members of the Board. My name is Kevin Cardinal. I'm a landscape architect and I'm the in-house land planner for the DRAPAC Group. The DRAPAC group is an Australian-based land development and investment company. Michael DRAPAC, the owner, has been doing developments and Australia and around the world over 30 years. He has a very unique approach to doing land development. He doesn't see it as developing a subdivision or developing land. He sees it as developing communities. That's what drew me to the company as a planner. He's very sustainable-oriented, not just sustainable from an economics standpoint but from environmental and a cultural standpoint. We look at properties, at the unique characters of property, and try to bring that out which makes it a unique portion of the community, which signifies a really unique development that members in the community can come together and enjoy as a group, not just live. We believe in a living, breathing community. DRAPAC has made a significant investment in Brunswick County. We actually have eight projects throughout Brunswick County.

Chairman Manos: Can you identify those please?

Mr. Cardinal: We have Ocean Isle Palms in Ocean Isle Beach.

Chairman Manos: Ocean Isle what?

Mr. Cardinal: Ocean Isle Palms.

Chairman Manos: Palms. Okay. Alright.

Mr. Cardinal: It's, we're in the process of planning the projects and rebranding them. We'll be giving them new names. I'm sure you all have known some of the properties that have transacted with Mark

Saunders. We've actually taken a few back from the banks, purchased them and they are actually in our assets that we hold. We're not planning on developing them. We have, we have patient capital from our investors and we look and make sure that the market is ready and we bring things online when the market can sustain it. We don't believe in mowing things down and developing it for the sake of just developing it. We look at when the market's right to create these unique communities. We have Ocean Isle Palms in Ocean Isle Beach. There's Sea Wind. There's...

Chairman Manos: Sea Wind?

Mr. Cardinal: Sea Wind.

Chairman Manos: Where's that?

Mr. Cardinal: Oh, that's over off near the community college...

Chairman Manos: Okay.

Mr. Cardinal:...and there's Eagle Creek over there by the Community College as well. Goose Marsh, Ibis Bay, Jubilation, oh, there are several more that escape me at the moment. I don't have the overall county plan in my head right now.

Chairman Manos: But none of these are currently in development?

Mr. Cardinal: The Ocean Isle Palms we are currently working on, that one sort of existed in a state of, um, uh, what do you call it, just upheaval. It has some plats, it has some utilities installed. We're trying to get that up and going for some of the residents. There are actually three people who live in that community. We're trying to get them some functionality of the community right there. We're trying to maintain the assets and bring them online when the market's ready.

Chairman Manos: Okay. Proceed. I didn't mean, I'm not trying to stop you from your presentation.

Mr. Cardinal: Oh no, that's fine. That's fine. Just feel free to ask any questions as I go. The uh, let's see, as I said, the investment company, they've got patient capital, so, and we look at all our projects throughout Brunswick community based on the area that it's in and the stage of development that it's in. And what we'll be doing is we'll actually be working with Brunswick County Planning as the market starts to come back online and to start looking at integrated green spaces and integrate the projects, as not just a project here, a project there, a project there, to sort of try and culminate the projects together as a whole for the company.

Chairman Manos: Okay.

Mr. Cardinal: But like I said, Michael has been doing the developments for 30 years and he is well established. He's won significant awards in Australia for his unique developments, one in particular called Laurimar, and you'll see that in one of the packets that I sent you. It gives you a little brief explanation about what Michael and his philosophy on development and created communities. The second packet you'll see are just existing projects that we have, we have acquired and some of the styles of architecture that we would probably see as far as a townhome and the character we would like to create within that community. We don't see the commercial area up front as commercial. We never really wanted a commercial piece, but we see that as an amenity piece. We don't function our development based on, oh we have retail here and we sell it off as retail. We see it as a community amenity feature, so that way, the people in the community have a place to go and they gather, whether it be a coffee shop, a pizza restaurant, um, just uh, little, just small office space, maybe optometrist, something like that to create some type of amenity for the residents that they can make quick, uh, make quick uh, trips to and sort of visit there instead of having to go outside and travel over. But that way it just invites them into the community. And then, the residential portion we have is a tighter-knit, in the square area in the front you'll see, in the area, that would be the tighter density where you're closer to the sidewalks and it gives more of a village appeal, uh, for a walkable community...

Chairman Manos: Say that again, what are you identifying on the map?

Mr. Cardinal: Uh, B, right here.

Chairman Manos: B? Okay.

Mr. Cardinal: A would be like the retail. We'd have retail down below and have like multi-family above.

Chairman Manos: Um-hum.

Mr. Cardinal: So it gives you that village-type center...

Mr. Germaine: Could you put the map up on the chairs please?

Mr. Cardinal: Sure.

Mr. Germaine: Thank you.

Mr. Cardinal: So that way you'd have like your small retail [unintelligible] your green square right here, with the tighter [unintelligible] of the walkable community through areas of B so everyone's more tight as far as community there. The C would be the multi-family component, where you have probably a three-level multi-family apartment, uh, type residential units behind the retail area. And then we would continue down the road into more of the spaced-out lots, as far as residential area, where you have larger lots, larger spaces between the homes and set back from the road and you'll have more of a relaxed feel throughout the rest of the neighborhood, with an amenity on the existing retention pond, which we would be reforming to create a more aesthetic green space around the pond, that is shared amongst the whole community, not just people owning [unintelligible] lots so that it will get a shared community space. That's a big key in our developments when we do land development, is being able to put green space for the whole community to use and not just individuals backing up to it. [Unintelligible]. And then we have other larger lots in the back, larger spaces between the homes. And then, we're still in the future looking at perhaps connecting into some of the attached properties on the corner, where there is commercial area. It's still in the planning stages because we don't know what that development is quite doing yet, and frankly, this is not to be developed in any time, we see this as a long-term hold, probably five, seven years, before anything can start to take place.

Chairman Manos: Where?

Vice-chairman Pacula: On the whole property.

Mr. Cardinal: ...we don't plan on submitting, we don't plan on submitting any permits to start construction, perhaps the entry, because with the widening of N.C. 211, there is some transportation issues we need to work out with the DOT...

Chairman Manos: Uh-huh.

Mr. Cardinal: So that way, um, we're assured that we have an entrance coming onto 211, cause I know some of the property owners there on the intersection have some difficulties now dealing with the DOT in trying to get site access, um, and so, that's something we're still in the process of working out. So, we may need to apply for a small permit up front for perhaps the entry and coming into the first phase. Um, and that we could see within, maybe a year, just so we can establish an entrance. But as far as full completion, I don't think we would be fully, uh developing that for several years.

Chairman Manos: When you say that, when we're talking about phases, that's my concern. Uh, the, the idea of applying to get your vested rights to, and you've clearly indicated that you want to get an additional five on top of that, that can't be done at this Board though we do have the power to make a recommendation to the Town Council that we would favor a five-year extension should they decide to do that. Technically, they have to decide to approve the initial vested right anyway, but that's just the way it works. My concern is that, just to be perfectly clear for the record, your intent is to make the application, then to seek an extension with the idea that you don't really intend to begin development for between five and seven years.

Mr. Cardinal: It could, it could be maybe three. Three years at the earliest. But I don't see that...

Chairman Manos: Okay. That's fine. I, that's why we're asking the questions, so we can fully understand. Uh, my, I'm going to open it up to y'all, but let me finish asking some questions initially. The A section, you say, is 32,000 square feet of retail space initially, with mixed-use so there can be residents above it.

Mr. Cardinal: That's correct.

Chairman Manos: When I was growing up, people used to say Teddy lives over the store, and that's in effect now a new fad. That was 70 years ago. Now, but your indication is that in the B and C section, are you intending to put single-family detached and attached housing or is that going to be primarily apartments?

Mr. Cardinal: Uh, B would be single-family attached. That's our intent.

Chairman Manos: Okay. Like condos...

Mr. Cardinal: Townhomes.

Chairman Manos: Like townhomes, or condos, or just townhomes?

Mr. Cardinal: Townhomes.

Chairman Manos: Okay. What's C going to be?

Mr. Cardinal: C would be like a multi-family.

Chairman Manos: Okay, so apartments.

Mr. Cardinal: We want to reserve that right. We don't see it as being viable in the market, but we wanted as a mixed-use area...

Chairman Manos: Uh-huh.

Mr. Cardinal: ...to have, to support that type of amenity, we wanted to factor that in as a possibility, but...

Chairman Manos: Okay.

Mr. Cardinal: ...um, we don't see that as being a viable option in the market, at least, I mean, nowhere soon.

Chairman Manos: Alright. I, the reason I am asking these questions is that I read your initial description very, very carefully, and was trying to understand, and noted that you made a specific statement, and I don't know if you intended to do that or not, under your phrasing, you indicate that in Phase II would be anticipated to extend the road infrastructure in the existing pods to add approximately 20-30 units per product type per pod. What are the product types? Everything? Or, I mean is it multi-family, apartment-types, is it single...

Mr. Cardinal: Yes.

Chairman Manos: ...family detached, single-family attached and, uh, well, the single-family attached is what your calling townhouses, right?

Mr. Cardinal: Right. That's correct.

Chairman Manos: Okay. So, you're talking about when you get there, you're going to build 20 of each type in the different phases, in the different pods?

Mr. Cardinal: Correct. That's typically, as a takedown, you would probably do 15-20 per pod, per product type, because you'll have, let's say, uh, an attached townhome product, you'll have perhaps 20 townhomes that you would release, uh, in one phase. But at that same time, you'd also have, uh, a detached, um single-family home being released at that point. So you would, at any one time, you would probably have, uh, 15 townhomes and 15 detached homes and maybe 15 of the multi-family. That would depend, obviously, depending on the market and it...[unintelligible].

Chairman Manos: Okay. How long has DRAPAC been developing?

Mr. Cardinal: Uh, DRAPAC's been developing for over 30 years.

Chairman Manos: Okay. Fine. And they...

Mr. Cardinal: They came to the U.S. back in 2010, and we have acquired properties in Tennessee, uh, North Carolina, South Carolina, Georgia, , uh, Alabama, Nevada, and we, like I said, we have a long-term, we have a long-term view on our, on the property acquisition.

Chairman Manos: Frankly, let me tell you, what that tells me is that there during that period of time, there was a lot of money in the, in the world from other countries, and people saw the opportunity in the United States to buy up properties on the cheap as a good investment and that, that, makes sense. I am more interested in DRAPAC's history as a developer, and you say they started in Australia. How much development did they do in Australia during the last 30 years?

Mr. Cardinal: Oh, he has the Laurimar development he's done. He's done, I think three other large properties. I'm not as familiar with the Australian properties he has developed. Uh, we have several in Atlanta right now that we are currently working on. We have Cameron Springs, we have Georgia Acres. We have Lake View, uh, what's the other one...

Chairman Manos: These are projects that you purchased from other developers that you're reworking?

Mr. Cardinal: Correct.

Chairman Manos: Okay. Alright. Ah, so this, this is, uh, what he's been doing since he's been in the United States.

Mr. Cardinal: Correct.

Chairman Manos: Are there any other developments such as this, which were more in line with single-family attached and detached, rather than picking up an apartment complex and reworking it?

Mr. Cardinal: Uh, yes. We have one in, near Charlotte, Wellstone. That's a townhome product that we've uh, we haven't done any apartments...

Chairman Manos: Okay.

Mr. Cardinal: ...and we don't plan on doing apartments. That's...

Chairman Manos: Okay.

Mr. Cardinal: That's just a reservation as far as the land use. Um, that's something that we don't, we don't develop. We will, would look at perhaps, uh, if someone perhaps wanted to look at, uh, the multi-family aspect, that's something we wanted the reservation for.

Chairman Manos: What's the stage of development in the, in the, uh, the Charlotte area. The Wellstone.

Mr. Cardinal: Uh, we're currently, uh, under contract with, I believe we're under contract with a builder up there right now in the second phase.

Chairman Manos: Second phase. So what, what's existing? Approximately. You don't have to be specific, but what's existing.

Mr. Cardinal: Uh, I believe that's a hundred townhomes...

Chairman Manos: Okay. Alright. Uh, so he's established a track record and a history to some extent, at least, to be building these properties.

Mr. Cardinal: Right. Correct.

Chairman Manos: Uh, while I got you there. And, and you're apparently the man, y'all described Michael Drapac. Who's Sebastian Drapac, because his name appears on the things?

Mr. Cardinal: Sebastian is Michael's son.

Chairman Manos: Okay.

Mr. Cardinal: He handles, he's actually in our office in Atlanta, and Michael actually has a main office in Australia, and he comes to the U.S. every two to three months and we confer as an organization, looking at the various investments, trying to determine when the market, when it's ready to start looking at trying to bring something online.

Chairman Manos: So Sebastian is basically heading up the U.S. operations.

Mr. Cardinal: Correct.

Chairman Manos: Alright. Who is Kristie Parcell?

Mr. Cardinal: Kristie Parcell.

Chairman Manos: Yeah. That name appears on the, on the application, and it says Kristy Parcell, ABB, listed as an owner.

Mr. Cardinal: She's the, there's a, there's a bank. We currently, we don't currently own the property right now.

Chairman Manos: Okay.

Mr. Cardinal: Uh, the property's actually under contract, uh, and part of uh, the purchase contract agreement is we need to secure our vested rights before we want to take possession of the property, because it doesn't make sense for us to, uh, purchase the property if we can't have vested rights in it.

Chairman Manos: Okay. I understand. So Kristy Parcell is simply a bank officer and the bank should have been listed as the owner with Kristy Parcell listed as the bank's representative.

Mr. Cardinal: Correct.

Chairman Manos: Okay. That, that explains that. Uh. So y'all simply have a contract at this point in time to purchase the property with the bank. Is there, to your knowledge, is there any type of negotiation for financing of the property or are you all going to just buy it out from the bank?

Mr. Cardinal: We buy it out typically. In some cases we do have, uh, financing, which we do, but it's not typically, because most of the capital is investor capital from Australia.

Chairman Manos: And you said they're patient, meaning they've got no place to get real interest in other parts of the world so they may as well put in property here.

Mr. Cardinal: [Unintelligible]

Chairman Manos: Gotcha.

Mr. Cardinal: I don't know the terms of this particular sale, specifically. We have an acquisition officer in Charlotte that, uh, goes through and works out negotiations with purchasing the property, so.

Chairman Manos: Alright. We've already talked about the extension. Uh. And you said that we've got Phase I primarily being your, it doesn't say that it's your entrance, but Phase I is going to be the application of some of the infrastructure, as well as the condos and the townhomes in the first phase, but you're reserving the possibility of apartments in the C section, is that correct?

Mr. Cardinal: Correct.

Chairman Manos: Okay. Have you, and just a matter of inquiry. You've got your amenities area, uh, which appears to be between D and E right along the entrance road, and it looks like, uh, according to the plan, that it's about a fifth of a mile, uh, from the entrance to B and C. Uh, and I'm assuming that you're going to put a, a complex and a swimming pool there, or something of that nature, tennis court or whatever else y'all do.

Mr. Cardinal: Yeah. Perhaps.

Chairman Manos: When do you build that?

Mr. Cardinal: Typically we like to do that in the first phase.

Chairman Manos: In your first phase?

Mr. Cardinal: Typically we like to do that in the first phase so that way it actually supports the residential units...

Chairman Manos: That's what I was wondering, because your plan says it's not going to be done until the possibility of the second phase.

Mr. Cardinal: It, it's like sort of between first and second. I mean, once you get traction, that gives the permit that you can do for the amenities. Uh, we typically underwrite our, our financial structure to include it in our first phase.

Chairman Manos: Okay. Alright.

Chairman Manos: You also made a statement, and this was really confusing to me and I am not sure that it was intentional. You say Phase III would be expected to complete the buildout of Pods B and C and to continue construction of Pods D and E...

Mr. Cardinal: Correct.

Chairman Manos: ...with extension, this is the point, with extension through the wetland crossing into Pod F with an initial group of single-family units, okay? My concern is the word initial, which, when I read it, I'm thinking, does that mean that the only tie they're going to start building single-family homes that are detached is in F and you've already testified that that's not the case at all. You're going to build single-family homes in E and D as well, that are detached.

Mr. Cardinal: Yes, we'll admit single-family in D, E, and F.

Chairman Manos: Okay, so that "initial" wasn't intended like that.

Mr. Cardinal: Right.

Chairman Manos: Okay. Alright.

Mr. Cardinal: Initially meaning your initial group of single-family lots, not the whole thing.

Chairman Manos: In F though.

Mr. Cardinal: Yes.

Chairman Manos: Okay. Alright.

Vice-chairman Pacula: Can I piggyback on that?

Chairman Manos: Yeah, go ahead.

Vice-chairman Pacula: And I think, the same concern that Ted had though, on the map though, in D and E, you say single-family detached or single-family attached, in both D and E, so it does read that the only single-family will then be in F.

Mr. Cardinal: We wanted the option to do D and E but right now we're currently looking at residential. We have, I have five different site plans. That's why we wanted to go with the phased-development plan, because we don't know, we don't know what the market's going to do in four years, five years. It's, I mean, that's why we wanted that flexibility.

Chairman Manos: So it's conceivable, if the market doesn't support it, you could end up with condos, I mean, not condos, but townhomes in D and E...

Mr. Cardinal: Correct...

Chairman Manos: ...and then save the...

Mr. Cardinal: Yeah, perhaps the...

Chairman Manos: Detached.

Mr. Cardinal: ...attached, uh, senior-type living.

Chairman Manos: Okay. Alright.

Ms. Cashwell: Okay. The vegetation buffer around all of this. My worst fear is, because this is over an extension of time, is how is this going to be maintained? If your ability to move into any of these pods and develop, who on site will be there to protect it, maintain it and to keep it from looking like a foreign root?

Mr. Cardinal: We have a land development manager that we have on our properties. We currently have one over at Ocean Isle Palms that manages our contractors over there and then we make monthly visits to go through and see what needs to be augmented, what needs to be corrected, so that way we don't run into any compliance issues with the towns or with the states or the counties.

Ms. Cashwell: Once it's developed, who maintains the property? Does the contract, or does the company still stay involved in it, or does it have an HOA or what?

Mr. Cardinal: We set up an HOA whenever we do our mixed-use communities, for like, the amenity area. They'll manage the amenity area. They manage the open space. They manage the entrance, the landscaping, and the HOA will have, like, dues that will sustain maintenance of the green space, the maintenance of the property.

Ms. Cashwell: Okay, but you're sure that during this development over a long period of time that it will be kept slightly and the neighbors around won't be complaining about the buffers and things will be in order as opposed to a construction site that is just not maintained?

Mr. Cardinal: Yes, when we, when we do our developments, we, uh, take strict responsibility for compliance issues like that, so that way the site is [unintelligible], not a mess...

Ms. Cashwell: Yeah.

Mr. Cardinal: ...or disheveled. That's what, that's what we're trying to do on several of the assets we have in Brunswick County right now, uh, there's, the prior developers, whether, who's fault site, whatever, you have real failures we're in the process of correcting right now, uh, trying to maintain some of the assets, so they, that way they don't fall on further disrepair.

Ms. Bowes: Will this be, I'm curious, price-wise, what are you looking at? Um, are you looking at sort of different levels...

Mr. Cardinal. Oh yes.

Ms. Bowes: ...are you looking at one level, what are you looking at?

Mr. Cardinal: There are, there are several levels. Everything, probably, I think, I think prices starting out like in the high 200s.

Ms. Bowes: High 200s?

Mr. Cardinal: Yeah, probably...

Ms. Bowes: So it's not, okay.

Mr. Cardinal: Yeah, it's not, it's not like a low, it's not a lower price point, It'd be sort of, uh, probably medium to high. That's a question, I can get more specific information.

Ms. Bowes: Well I'm just wondering. I mean, I happen, it's, just, I was curious about what you were looking at price-wise. I'm also curious and I don't know if I'm allowed to ask this, so you can tell me. I

noticed that in your write-up, you're asking permission to hook up sewer-wise directly into Brunswick County...

Mr. Cardinal: Yes.

Ms. Bowes: And I'm just wondering, I don't know what impact that will have on, will that mean that this development would not pay Oak Island sewer fees, or what would it mean?

Chairman Manos: Yes.

Mr. Edes: You can ask that question, I don't...

Mr. Cardinal: Correct. We, uh, we've been talking with Jake. We have a letter from the Town releasing us and giving, asking permission for us to connect into Brunswick County, because there is no connection close to where we can tap into the infrastructure for the Town Oak Island.

Ms. Bowes: So then Oak Island sewer, in other words, fees would not, receive any benefit from you doing that, which is one, okay.

Mr. Cardinal: Correct. There is a 16-inch line that the County maintains in front of the property, uh, and right now, that's the only infrastructure available to tie in for sewer and water.

Ms. Bowes: Do you foresee this as being a gated community?

Mr. Cardinal: No. We don't see that as being a gated community. Now, that's sort of, that's sort of difficult when you have a mixed-use application up front. Uh, that's not, um, that's not to say it couldn't maybe in the back, but when you have like a mixed community, like village-type community, or neighborhood that you're trying to develop, gated makes it sort of difficult to do that.

Mr. Germaine: On the first page it says that you're within the ETJ of the Town of Oak Island. Uh, which is it? In the Town of Oak Island or in the ETJ?

Mr. Vares: I can answer that.

Mr. Germaine: Hm?

Mr. Vares: It's not in the ETJ. It's just a mistake. It's within the corporate limits of the Town of Oak Island.

Mr. Germaine: I was trying to find a map that shows all of the properties on Oak Island...

Vice-chairman Pacula: It's on the zoning one, he included.

Mr. Germaine: No. That, that shows all of the, these properties aren't...

Vice-chairman Pacula: Um-hm.

Mr. Germaine: I didn't see that it on there. Anyway, um, do you have anything on your property there for services, you know, fire department, police department or anything like that?

Mr. Cardinal: No, it's, we don't have any, we don't have anything identified as far as a private fire department or police service.

Vice-chairman Pacula: Um, you state on the whole property it is 162 acres which would allow 940 units, so you're including all the wetlands and all of that in it to get the 940 units, of which then you said you're only going to do seven hundred and...

Mr. Cardinal: 719.

Vice-chairman Pacula: Nineteen? Okay. Um, in one place it says that there were wetlands, there were 33 acres and, and in your summary it states that there were 44 acres.

Mr. Cardinal: You should have, I believe it is 38 acres. That I will have to check...

Vice-chairman Pacula: Okay.

Chairman Manos: The summary says, potential, it says 44 acres of

Vice-chairman Pacula: Forty-four. Well...

Chairman Manos: ...potential wetlands.

Ms. Cashwell: Yeah.

Vice-chairman Pacula: So then when it says open space required 24 acres...

Ms. Cashwell: So he's above it.

Vice-chairman Pacula: ...so you're covering, or filling, some of the wetlands that are in there?

Mr. Cardinal: Part of the wetlands and the green space around there as a shared amenity, for like walking trails and green space.

Vice-chairman Pacula: In the wetlands?

Mr. Cardinal: In and around there, bordering the wetlands areas.

Vice-chairman Pacula: Okay. And the amenity areas, I'm noticing just two. Two circles are your amenity areas.

Mr. Cardinal: Correct. But we've, we see the village component as an amenity.

Vice-chairman Pacula: Okay, so I believe it was Ted had asked about swimming pools and tennis courts, and looking at it, and now I was using this big map, as a scale, and I thought it said 200 feet, is the big map, so that the circle was 200 feet all around...

Mr. Cardinal: It, this...

Vice-chairman Pacula: You can put a swimming pool, tennis courts and a clubhouse in that?

Mr. Cardinal: No. This is like I said, strictly a conceptual layout, because we don't even know what amenities there would need to be at this point. We haven't even identified that yet. Uh, I mean, when we figure out when the market's coming online and when the market dictates what amenities you want, then we grow it, shrink it, depending on what the market is asking for.

Vice-chairman Pacula: Okay. Um, one thing, and I have not, you know, we're not really allowed to walk onto the property. Is it fully treed right now?

Mr. Cardinal: Uh, there's like is a lot of scrub growth. There are some trees, uh, I think we have trees along the borders, um, I don't have that plan in front of me. Do you have that, do you have that plan at all?

Mr. Weeks: No.

Mr. Cardinal: But, yeah, there's, we do have, we do have some tree growth on the property but a lot of it, there, but a lot of it is scrub growth.

Vice-chairman Pacula: Because when you're talking about buffering that's already existing, if it's scrub that's there, I mean, maybe in seven years I'm sure they'll be taller, in ten years, but, um, you know, the adequate buffering that is there for the neighbors, and then looking at this pack that you gave, the majority of the pictures just show new trees, not existing, so it might just be site-specific...

Mr. Cardinal: Yeah.

Vice-chairman Pacula: ...to these pictures of...

Mr. Cardinal: Right. That's just to show you the character...

Chairman Manos: Let's stop a second. Is it your request that this be admitted into evidence?

Mr. Cardinal: Yes.

Chairman Manos: Okay.

Mr. Edes: Could you authenticate it? I mean, just tell the Board what these pictures are, and...

Mr. Cardinal: Uh, these pictures are of some mixed with our property. We don't have a mixed-development unit yet, but these identify as a mixed-use component type style architecture and community that we're trying to, that we'd like to achieve, um...

Chairman Manos: So these are examples, not necessarily direct pictures of your, uh, other developments.

Mr. Cardinal: Correct.

Chairman Manos: Okay. Alright.

Mr. Cardinal: There's some of them that are, um, but like the multi-family, like I said, we don't do multi-family. Um, that's something we just, I just want to show you the character. It's not going to gigantic. We just something on a smaller scale that can fit and can support the mixed-use like sort of village. And then the village area, like I said, that's, uh, that's another developer that's in Atlanta that we like that particular retail down below with the loft above. And then the single-family, uh, I believe most of the single-family in there is, well, the one single-family photo you have in there, that was from ours. The attached townhome product was actually from prior projects I've worked on in the past.

Mr. Edes: Do you want to look at this...

Mr. Cardinal: Yeah.

Chairman Manos: Alright Madam Clerk, please enter this into the record as Applicant's Exhibit 1.

Mr. Edes: And I would just admonish the Board that, uh, they are not bound by the nature, type of structure in these pictures. They're, they're, it sounds to me like that's where they would like to go...

Mr. Cardinal: Right.

Mr. Edes: But they're not, the admission of these does not bind them to this type of construction.

Mr. Cardinal: We like to work with an, we like to work with architects that can create design guidelines for us, so that way it can fit within our design model that we like to create.

Vice-chairman Pacula: Um, so we did determine it is in the Town of Oak Island...

Mr. Cardinal: Um-hm.

Vice-chairman Pacula: Sewer will come from Brunswick County...

Mr. Cardinal: Brunswick County. Correct.

Vice-chairman Pacula: Okay. Um. Fire Districts there. Does anybody know what fire district and where...

Susan Colby (from the audience): St. James.

Mr. Cardinal: I do not know that.

Vice-chairman Pacula: We're down 211...St. James? Okay. Um. Where was the sand mine located?

Mr. Cardinal: The sand mine was, this was an existing sand mine pit right here. Um, it has some compliance issues, but I contacted the state and so everything's been, um, addressed and so that's all been, they've closed that issue, closed that file. And we would, we'd like to clean that up to make it more of an amenity feature that you can walk around, perhaps fish, whatever.

Vice-chairman Pacula: You talked about with all your other properties, that you were working with the County, um, for green space?

Mr. Cardinal: Yes, I've actually been conversing with the County and some of the engineers on the Planning Board, East Coast Engineers, Chris Stanley's on the Planning Board for Brunswick County, and I've been talking with him, trying to get a feel for what green space, what green space and pedestrian ordinances are coming online, what grants are available, and trying to create more of a more comprehensive plan for all of our communities together.

Vice-chairman Pacula: Well, cause, um, in another Board, the CPAC Board, we had a woman, Casey Cook, from the North Carolina Wildlife Resource Commission, that there's a Green Growth Toolbox that, I mean, she spoke to us. Are you familiar with that or looking into that with...

Mr. Cardinal: That's what I'm, I'm just starting to get my whole list of all the organizations...

Vice-chairman Pacula: Because this doesn't really fit in kind of with their green growth, I don't believe. Kelley? Correct on that?

Mr. Cardinal: Well...

Vice-chairman Pacula: Okay.

Mr. Cardinal: ...I need to, I need to find out a little more research on that.

Vice-chairman Pacula: Um, and then I wasn't sure, height limits, on this?

Mr. Cardinal: Uh, was for the, uh, residential portion, we are...

Vice-chairman Pacula: Yeah. I mean are we, I know there's something with the C-LD and conditional, there's something you go back so far and you can go so high, so what is their height limit?

Mr. Edes: All construction would have to comply with our existing ordinances.

Mr. Cardinal: Right.

Mr. Vares: Yeah.

Chairman Manos: I see nothing in there requesting anything other than 35 or 41, and I doubt there's any VE in there.

Vice-chairman Pacula: Okay.

Mr. Vares: It's all X, the zoning.

Chairman Manos: Huh?

Mr. Vares: It's all X flood zones...

Vice-chairman Pacula: Okay.

Mr. Vares: So yeah, it's not VE.

Chairman Manos: Okay. So you've got a 35-foot height limit on everything in there.

Vice-chairman Pacula: There is something though with the C-LD that states you can go back and move something and then you can, for every foot going in you can go higher, in a C-LD in a conditional use. So my thing is, are we going to end up with a hotel there as they start moving back? So the height limit...

Chairman Manos: Say that again? Cause I don't understand that myself.

Ms. Cashwell: Height limit isn't restrictive on the mainland.

Vice-chairman Pacula: Yes.

Ms. Cashwell: I don't think so.

Ms. Bowes: I know...

Vice-chairman Pacula: Is height limit restricted on the mainland?

Ms. Cashwell: I don't think so.

Mr. Jenkins: I don't understand that.

Mr. Vares: The tables that refer to height limits, 18-118, 18-117, do not mention mainland versus island, unless it's in a footnote that I'm missing.

Vice-chairman Pacula: I'll look for it.

Chairman Manos: Well, we have always discussed in most areas, that if there were going to be any high-rise development, it would have to be on the mainland side,...

Ms. Cashwell: Yes, that's what I said. I don't believe there's a restriction on it...

Chairman Manos: ...to that extent, but I think it takes some type of special action to waive that, and I'm not sure if it's got to be as part of a conditional use or otherwise, but that's not before us now, so I mean, as far as they're concerned, you're looking at a 35-foot community unless they're planning on putting a hotel. But you're not, that's not part of your plan, that's some something that you've considered.

Mr. Cardinal: It hasn't even entered our minds.

Vice-chairman Pacula: Then. Next? So right now you're doing your due diligence.

Mr. Cardinal: Correct.

Vice-chairman Pacula: And you're looking at five to seven years to begin...

Mr. Cardinal: Potentially. Yeah, that's, I mean we have, uh, we have some assets that probably won't be coming online for ten. I mean, it really depends on the market, but uh, right now we don't, we don't see it perhaps for at least five.

Vice-chairman Pacula: So, I just want to understand the process then. So if this is approved, in five years, the market changes, can they come back and...

Mr. Vares: They can apply for an extension of what they've proposed here. If they're ready to build within that time, uh, that they've been allotted to build, then, um, they would come back before the Town again, and before this Board with the more site-specific development plan, where you see the lots, road widths, and at that point, my job is going to be to make sure they meet all the requirements in our zoning ordinances, the dimensional standards, square footage of the lot, uh, all that sort of stuff that we require. So, that's how the process would go.

Mr. Cardinal: We like to secure our entitlements, like, cause as you all just had the presentation with the, the Unified Development Ordinances, you know, ordinances can change and when we acquire an asset, we like to know that it meets "x" criteria, uh, financially, and that makes it viable, uh, and if the ordinance is changed, then that could change the outcome as far as our asset. Uh, and that's why we like to secure that upfront.

Vice-chairman Pacula: Okay, so really you're asking for a conditional use PUD...

Mr. Cardinal: Correct.

Vice-chairman Pacula: ...that then would be good for potentially seven years...

Mr. Cardinal: Correct.

Vice-chairman Pacula: ...with it.

Mr. Cardinal: Correct.

Vice-chairman Pacula: Okay.

Mr. Jenkins: I asked Jake about that earlier, cause I had some concern about that where we've dealt with things in the past where we dealt with the zoning issue is one issue and the building is another, and he

said that this had to be handled together. I don't have a problem with them zoning this the way they want to, knowing that we'll be able to look at their building plans in the future. A couple of concerns that I have, from looking at this, uh, on the surface. One touches on what Denise mentioned, about the units per acre. If you start looking at the buildable acreage, 94 acres, and back out right-of-ways and the amount of property that will be needed to have roads and access, you're down to the mid-80s, probably, and if you're at 716 units, that's roughly eight and a half to nine units per acre, which is a lot higher density than what you'd see if you ride around Oak Island on the mainland, I mean, on the island in the wooded section. That is either going to have to require small lots, which you don't allow for in here with a 50-foot minimum, or more condos and connected houses than I think you're letting on to. And that may not be intentional, but the numbers in my mind, either I'm misreading them or they're not adding up the way you're describing it. Uh, that's one issue I have. That will be ironed out in the future when we have an actual site-specific plan. But that's something that's rolling around in my mind.

Mr. Cardinal: Um-hm.

Mr. Jenkins: The other is that highway 211 and Midway Road are going to be restricted access roads. And you show future connection to other properties, which I think is very smart, but I would advise to definitely consider that you're going to have other people asking you to use those roads which will probably need to be, lead to wider access roads and even more property used as rights-of-way than what you would need if you were just allowing for your 116, or 160 2-acre traffic flow.

Mr. Cardinal: Um-hm.

Mr. Jenkins: Um, if you get an entrance, somebody next to you is not going to get one, which means they're going to be asking you to use your entrance. Uh, and it's the same with property on Midway Road, where I know the Town's going to limit how many people tie into that road. The other adjoining property owners along Midway, I would assume would want access through your property or will be contacting, uh, your group about that, so keep that in mind.

Mr. Cardinal: Okay.

Ms. Cashwell: Actually, just getting out between the different areas would be difficult. I don't see any, I don't see any roads between the different pods to the main one going out.

Mr. Jenkins: They have them lightly shaded in on their maps.

Ms. Cashwell: Uh, that's scarce to none.

Mr. Jenkins: Oh yeah.

Vice-chairman Pacula: Yeah.

Mr. Germaine: These potential connectors, where would they be connecting to?

Vice-chairman Pacula: Future development.

Mr. Cardinal: It, it would, it would depend on what the developer below would want [unintelligible], that's, but we would, we would sort of initiate that...

Mr. Germaine: So if they don't have any connection to any main road, then they'd be going through your property then?

Mr. Cardinal: Uh, correct, but most of the properties I think down below us have access on Midway, is it Middleton?

Mr. Germaine: Middleton. That goes into the, doesn't that go into the Williamson tract?

Ms. Cashwell: That's next to it on one side.

Ms. Cashwell: I understand this is a concept map.

Mr. Cardinal: Correct.

Ms. Cashwell: Now then, what's your really intents, what's your really intent with density?

Mr. Cardinal: Excuse me?

Ms. Cashwell: What's your real intent with density? Just...

Mr. Cardinal: We look at, we look at underwriting all our property as single-family residential, detached. That's how, that's our typical model. And so that way, when we look at it, we'll have a single-family, uh, most of it is you know, single-family or there's a small segment of attached. That's right now, it's, we

have several different models that we've looked at. I mean, it's hard to say, cause the market just doesn't dictate anything right now. We just want, we just want to have the flexibility.

Ms. Cashwell: Well I think, our biggest concern would be density, uh, and how you move in and out among those pods. But once you start doing development, then you'll have to come back with site-specifics.

Mr. Cardinal: Oh yes.

Ms. Cashwell: At that point, we can really focus in on what it's going to be like.

Mr. Cardinal. Exactly. Exactly. And were not trying to get away from that. We just like to know what our, what the maximum model could be, or the minimum model could be that we have to go between, so that we know, does it make sense to continue with the acquisition or not.

Ms. Cashwell: So our decision today is to approve this as a future development, based on how we perceive you're going to go on with your development as it comes in a phase?

Mr. Cardinal: Um-hm.

Ms. Cashwell: Over seven years, basically.

Mr. Cardinal: Correct.

Ms. Bowes: One of my biggest concerns is, is affordability, that when I listen to residents that are in this area or are trying to move into this area, housing-wise, that price range is not for people in this area, not for many people in this area.

Mr. Cardinal: Okay.

Ms. Bowes: And, just, we have to think about affordability for people that live and work in the area, and that you're going to want to live and work in the area.

Mr. Cardinal: Um-hm.

Ms. Bowes: That's my comment.

Mr. Cardinal; Okay.

Vice-chairman Pacula: So you, um, stated that you have eight projects right now in Brunswick County, or properties.

Mr. Cardinal: Correct.

Vice-chairman Pacula: So this would be number nine.

Mr. Cardinal: Correct.

Vice-chairman Pacula: Are you doing it in order, or as in...

Mr. Cardinal: As far as development.

Vice-chairman Pacula: ...to develop them?

Mr. Cardinal: Uh, it really will depend on the market, cause the, our, our projects, I mean we have some in North Brunswick, north of Wilmington. We have several south on 17, south on 17, the Ocean Isle Palms, and Goose Marsh, so it really depends on how that, how the market actually grows with some of the newer traffic that's coming in along 17.

Ms. Bowes: And I drive by Goose Farm and I don't see any activity.

Mr. Cardinal: Yeah. Exactly. That's I mean...

Ms. Bowes: Is that true? Okay I just.

Mr. Cardinal: Right No, it's, it's, I mean, we maintain it.

Ms. Bowes: Okay.

Mr. Cardinal: But there's no plans to bring it online.

Ms. Bowes: The sign needs to be cleaned a little bit.

Mr. Cardinal: Yeah. I've got to ask that management department. That's coming up next week.

Vice-chairman Pacula: Um and I don't know who to ask, about The Charles. What did they decide for vested rights on The Charles?

Mr. Vares: Um, are you referring to the Williamson tract?

Chairman Manos: No.

Ms. Cashwell: The Charles...

Vice-chairman Pacula: The Charles...

Chairman Manos: The Charles...

Vice-chairman Pacula: On 211? Does anybody?

Mr. Vares: I'm not sure if they've actually submitted something finalized yet. Um, I'm not entirely sure.

Vice-chairman Pacula: Is Steve here?

Mr. Vares: No. I guess I'll have to...

Vice-chairman Pacula: All my questions lead to something, Ted. Ok.

Chairman Manos: I'm well aware of that.

Vice-chairman Pacula: Is, can, does Steve know? Do you know?

[Unintelligible]

Chairman Manos: Any other questions while we're waiting to find this out?

Mr. Carpenter: How many units are going to be in the multi-family units and how many townhouses are going to be attached?

Mr. Cardinal: That, I don't know.

Mr. Carpenter: In theory.

Mr. Cardinal: I don't even, I don't even know. That's the thing. We just, we're just segmenting, we basically set aside the property based on the physical character of the property, because you have the wetlands up front and that is sort of what's dictating what groups of, what groups of development are happening where. Um, because we wanted the, obviously, the more, um, tighter development around the community center upfront, and then spacing out the back. So, I mean, that, and we basically just did it from an area.

Mr. Carpenter: Are you looking to a one-to-one-to-one ratio, and by that what I mean is, for every single-family house, you'll have single-family attached and you'll have multi-family units? Looking at the density it seems you're going to have to have an awful lot of multi-family units to get to 719.

Mr. Cardinal: Basically, what we do is, um, we'll portion it off on a percentage, um, whatever the, uh, the potential, let's say, sales point is, and then the size and then we'll structure it from there as far as whether we have, um, ten percent, or fifteen percent, um, 50-foot units, or 20 percent, um 70-foot units. It really depends on where the market is going to send it. That's how, that's how we, we'll determine the actual...

Mr. Carpenter: But that would be coming back before this Board before you build any...

Mr. Cardinal: Yeah.

Vice-chairman Pacula: And it could look completely different than this.

Mr. Carpenter: Right.

Mr. Cardinal: Yeah.

Vice-chairman Pacula: Because all we're doing is saying it's a PUD Mixed Use...

Mr. Cardinal: Exactly.

Vice-chairman Pacula: ...or conditional, so, it could be...

Mr. Cardinal: Exactly. We want, we want to secure that, that PUD conditional use designation.

Chairman Manos: But we are that, we are the, not we, the next Planning Board...

Vice-chairman Pacula: Right.

Chairman Manos: ...down the road is going to have to approve that...

Vice-chairman Pacula: yes.

Chairman Manos: ...at the time it comes on.

Vice-chairman Pacula: So this could completely change.

Mr. Cardinal: Right.

Vice-chairman Pacula: Okay.

Chairman Manos: Steve, you're due. Would you come up and answer a question please.

Ms. Stites: He's not sworn in.

Vice-chairman Pacula: He's not sworn in yet.

Ms. Stites administered the oath to Building Codes Administrator Steve Edwards.

Chairman Manos: Steve, state your name and address please.

Mr. Edwards: Steve Edwards, 722 Alyssum Avenue in Caswell Beach.

Vice-chairman Pacula: I had a question on The Charles.

Mr. Edwards: Yes.

Vice-chairman Pacula: What were their vested rights, or how did that, how is that, they've come to the Planning Board?

Mr. Edwards: Uh. They have not submitted a, I don't believe a subdivision has been submitted. They did do a minor subdivision on the front parcel there. I'm not familiar. I'd have to do some research. I know they've got a preliminary revision of what they had proposed, but I don't know if anything's been submitted.

Vice-chairman Pacula: So they've never come before the Planning Board?

Mr. Edwards: Not that I'm aware of. I mean...

Vice-chairman Pacula: So they're just clearing some land there?

Mr. Edwards: They did do a, they do have a minor subdivision to do a phase where they're going to do a, their anchor tenant, and a little medical facility, a little commercial part, but as for the rest of the subdivision, I'm not, I'm unaware of anything that has been formally approved.

Ms. Cashwell: Didn't they have a contractor pour a small street with some pads on each side?

Mr. Edwards: They, I'm sorry, a contractor?

Ms. Cashwell: A contractor poured a street...

Mr. Edwards: I know they've just got a gravel road...

Ms. Cashwell: ...with pads on each side, for about three, for about six pads or nine pads.

Mr. Edwards: They do have a development permit to set up a construction trailer and there was a gravel road put it. I have not been out there in a while to look at any further development on that.

Vice-chairman Pacula: So they're zoning is a C-LD right now. All they've pulled is a development permit. They've not come before the Planning Board to ask for a conditional use or anything with that property.

Mr. Edwards: Not that I'm aware of.

Vice-chairman Pacula: Okay.

Mr. Vares: I think I remember now. I think it was my second or third day here there was a brief meeting with them, where, um, they said basically said they had a vague concept plan and they were getting their ducks in a row, their due diligence, trying to figure out if they would qualify for all the other state permits and whatnot that they had to receive.

Chairman Manos: They might not have been interested in vested rights. These guys want to get vested rights before they dump a bunch of cash into the property, and The Charles, they got the property.

Vice-chairman Pacula: And my, thank you Steve. The two things that I then, then were, oh...

Mr. Edes: Mr. Cardinal, do you have any cross-examination for Mr. Edwards.

Mr. Cardinal: No.

Mr. Edes: Mr. Weeks?

Vice-chairman Pacula: Um, were just the vested rights for that. And then the, looking at the future, with it being in the Town of Oak Island and The Charles in the Town of Oak Island, of what they're potentially wanting to do, of then looking at the resources that we have to provide police, fire, all that. But if they've done nothing and there's no vested rights then we can use precedence with them. Or that they're even considering doing anything.

Chairman Manos: Any other questions from members of the Board?

Mr. Vares: Before we make a motion, or close the hearing...

Chairman Manos: Well, we're not going to do that yet because I've got other people who were sworn in. I want to see if anybody else is going to testify.

Mr. Edes: I have a housekeeping matter for Mr. Cardinal.

Chairman Manos: Go ahead.

Mr. Edes: Mr. Cardinal, you're familiar with the application submitted in this case.

Mr. Cardinal: Yes.

Mr. Edes: Is that accurately represented in the agenda packet?

Mr. Cardinal: Yes...

Mr. Edes: Do you wish to move that into evidence?

Mr. Cardinal: Yes.

Mr. Edes. Okay. I recommend we accept that as Exhibit B Mr. Chairman.

Chairman Manos: Which one is that?

Mr. Edes: The, uh, application.

Chairman Manos: Okay, got it.

Chairman Manos: As...

Chairman Manos: And the packet.

Mr. Edes: yes sir.

Chairman Manos: Okay. Thank you. Now, does that conclude your presentation on behalf of the applicant?

Mr. Cardinal: Yes.

Chairman Manos: Thank you.

Mr. Edes: Cross examination from anyone opposed to this application?

Chairman Manos: Is there anyone who wishes to testify? Please come forward.

Mr. Edes: I just want to make sure the record is clear. No one wishes to cross-examine the applicant that's been sworn in. Is that correct? If anyone does, now's the time to come forward.

Brandy Carmichael: I have questions but I don't know if it's for him or y'all.

Mr. Edes: Well do you wish to, I mean now would be the time for you to question the applicant if you'd like to question. But if you, ma'am.

Chairman Manos: You're going to have to come forward ma'am.

[Unintelligible]

Chairman Manos; wait a second. When you get up to the podium, I want you to state your name and give us your address for the record.

Brandy Carmichael: Brandy Carmichael, 2640 Mosquito Branch Road, niece of the property owner Art, and property owner of the adjacent, 2660 Mosquito Branch Road.

Chairman Manos: Go ahead Ms. Carmichael. Ask your question.

Ms. Carmichael: My concern is, which it could be too soon to ask, stormwater.

Ms. Cashwell: Step forward please, to the microphone.

Ms. Carmichael: Stormwater. Uh, is there any, do y'all have any plans already on what y'all are going to do with it because with this last storm, I couldn't get out, out the top of my road because it would have flooded in my car, and according to the way the water was running, it was coming from that direction my way. Is it y'all's problem? Yes and no. It is when the building begins.

Mr. Cardinal: Yes.

Mr. Edes: Who's going...

Chairman Manos: You're going to have to come to the microphone for the record too as well.

Mr. Edes: Mr. Weeks, so, on behalf of the applicant, you're going to answer that question?

Mr. Weeks: Yes.

Mr. Edes: Okay.

Mr. Weeks: I don't know if you can hear me, but,

Vice-chairman Pacula: Yeah, that's...

Mr. Weeks: That is a pre-development condition.

Ms. Carmichael: Um-hm.

Mr. Weeks: Once any development occurs on the property, then we will have to obtain and receive permits from state and local municipality...

Ms. Carmichael: Um-hm.

Mr. Weeks: There will be plans for compliance...[unintelligible], so that will be addressed. Typically what we see is, in my experience, is that engineered solutions normally address the bigger picture and so all of that is factored into the design and engineering of the stormwater permit.

Ms. Carmichael: So do you need to see a picture?

Mr. Weeks: At, at this point in time, I...

Ms. Carmichael: So, I just figured for ideas, cause like I said, that's my biggest concern is, I don't care what anybody does with their property. You own it. You can do what you want to. I don't like being told what to do with mine. My concern is...

Mr. Edes: Mr. Chair, I believe the question has been asked and answered. Now, if Ms. Carmichael wants to make a presentation to the Board, she's welcome to do that, but I'd like to stop the back and forth up here, unless you have...

Chairman Manos: Okay.

Mr. Edes: Y'all can sit down.

Ms. Carmichael: I'm not used to this, so...

Mr. Edes: And I'm helping you. I'm trying to help you. Now you can address what you're saying to the Board as a whole.

Ms. Carmichael: My concern is the flooding. Um, that property does flood bad.

Chairman Manos; yes ma'am.

Ms. Carmichael: And, the ditch that's between that property and the property I live on flooded into my yard.

Chairman Manos: Ms. Carmichael, let me ask you a question initially. Do you live on Mosquito Branch Road?

Ms. Carmichael: Yes sir.

Chairman Manos: Okay. So you live in either lots 1 or 4. I understand that there are two other Carmichaels.

Ms. Carmichael: [Unintelligible]

[Unintelligible and multiple conversations]

Ms. Carmichael: I live right here. My cousin...and my grandmother lives there...

Chairman Manos: Okay, fine. I will, I will identify...

Ms. Carmichael: [Unintelligible]

Chairman Manos: Let me identify that for the record. Okay. Ms. Carmichael lives in Lot number 1. She owns Lot number 2. Lot number 3 is her aunt and Lot number 4 is her grandmother. They all live on Mosquito Branch Road and, uh, live, uh, adjacent to the west, uh, area of the property, which is adjacent to Parcel B on the map. Uh, let me ask you another question. Uh, directly to the north of your property, is that the Michelakis portion or not? Is that the dental office?

Ms. Carmichael: Um...

Chairman Manos: Or is that on the other side of the development?

Ms. Carmichael: That's kind of behind and road front. Besides us is, uh, the Webbs, and...

Chairman Manos: Between you and 211. What is that?

Ms. Carmichael: I've got the Webbs that own property and live in and I've got what used to be a landscaping place that has old pools propped up or something.

Chairman Manos: Okay, that's directly between you and 211?

Ms. Carmichael: Yes.

Chairman Manos: Okay.

Ms. Carmichael: Bridgers. Bridgers Landscaping used to be there.

Chairman Manos: Okay. So your main concern is the flooding that was where, along Mosquito Branch or along the whole property?

Ms. Carmichael: ...and caused it to run down 211. I mean, it, it hold water anyway, but, I know when building begins, then it's going, there's somewhere the water's got to go. Will it increase how much it comes our way, or can something be done to prevent it before...

Chairman Manos: That will certainly have to be a consideration with the plans that are made at the time before they build, when they come back to us.

Ms. Carmichael: I wish I could have printed the picture out, but I have a picture of the top of the road.

Vice-chairman Pacula: I have a question then. In your back yard, coming down Mosquito Branch, if that's the front. So if you go in the back of Lot 1, 2 3 and 4, is that what you consider a wetland right now, or...

Ms. Carmichael: Well it's slowly drying up, but uh, I have a pond in my back yard on Lot 1. Lot 3 has a pond in their back yard. I don't, their property done better, Lot 3 and 4 done a lot better than 1 and 2.

Vice-chairman Pacula: So, when you say a pond, is it one you made, or...

Ms. Carmichael: Yes ma'am. We built the pond on both of those, 1 and 3. But like I said, the pond didn't overflow. We actually watched the ditch overflow into the pond. So that let me know that there's drainage issues on that side of the property.

Chairman Manos: Where is the ditch?

Ms. Carmichael: What do you mean?

Chairman Manos: In the back of your property? Is that where the ditch is, at the very back of your property?

Ms. Carmichael: Yes sir.

Chairman Manos: So it's between your property and the proposed development?

Ms. Carmichael: Yes sir.

Chairman Manos: Okay. Alright. That's good to know.

Vice-chairman Pacula: Okay, so can I ask now about property B then, so it would be to the applicant?

Mr. Edes: Yes, you can bring the applicant. If Ms. Cavanaugh is finished testifying.

Ms. Carmichael: Carmichael.

Vice-chairman Pacula: Carmichael.

Mr. Edes: I'm sorry. I wrote it down correctly. Did you have anything else...

Ms. Carmichael: No, I just didn't know if you needed to see the picture or anything...

Chairman Manos: Love to see the picture. I'm leaving this so I can go to work.

Mr. Edes: Well, I need to look at that. We need to show it to the applicant to see if they have any objections first, Mr. Chairman. And can you just tell me what this, you took this picture?

Ms. Carmichael: My daughter took it for me, because they, uh, were in the truck, and she took it. She said 'Don't come down here. You're not going to get out.'

Mr. Edes: Okay, and...

Ms. Carmichael: They were in a Tacoma. The door of the Tacoma comes up to about here, the water came down to there.

Chairman Manos: Is it your testimony that that picture depicts an area which is behind your house or in front of your house?

Ms. Carmichael: That's 211, road frontage. I've got another picture that shows water running down my road.

Chairman Manos: That's 211, which is...

Ms. Carmichael: That leads to Mosquito Branch Road. You see my street sign there, and I got another picture of the water running down my road.

Ms. Edes: Do you have any objections...

Ms. Cashwell: Does it do that every time it rains or was this just an extraordinary time?

Ms. Carmichael: Hurricanes, or major rains like this where we're constantly getting rain soaked, but not every time we get a rain, no. But that's one of my concerns is, we do, we are prone to hurricanes.

Mr. Edes: Mr. Chairman, the applicant doesn't have any objections to this being shown to the Board, but we will need to get a copy for the record. I don't know how we're going to do that.

Ms. Carmichael: I can send the picture.

Mr. Vares: I'll get with you after the meeting.

Ms. Carmichael: We're going to have to do it quick. I've got to go.

Mr. Vares: Okay. Actually, if you just trade numbers with Chad here. I don't have a smart phone.

Chairman Manos: ...and 211 is over here. In looking at the picture, 211 is to the left. Is that correct?

Ms. Carmichael: That picture? Yes. That's facing, that's looking towards Midway Road. And the person that actually lives in...

Ms. Bowes: Look at this...

Mr. Edes: Golly.

[Unintelligible]

Mr. Vares: So Brian, we will enter this into evidence.

Chairman Manos: Yes.

Mr. Edes: There's been no objections and I, I recommend that it be accepted, yes.

Mr. Carpenter: So this is facing, this is like I'm going toward 17...

Vice-chairman Pacula: Yeah, so this is 211 that way.

Ms. Carmichael: Like I said, besides the stormwater I have no objections to whatever y'all do. I just...

Chairman Manos: thank you. That will be noted in the record, your lack of objection to it. And, uh...

Ms. Bowes: ...she's got to go to work.

Mr. Germaine: Thank you.

Chairman Manos: Brian.

Mr. Edes: Yes sir.

Chairman Manos: Would you give Ms. Carmichael, would you take a phone number so that you can...

Mr. Vares: She can swap with Chad.

Mr. Carpenter: She's doing that right now.

Mr. Vares: I'll add it to my case file.

Mr. Edes: I guess one of us could have taken a picture of the picture with our phone.

Chairman Manos: Take a picture of the picture?

Vice-chairman Pacula: So now...

Chairman Manos: You have a question.

Vice-chairman Pacula: ...I guess for the applicant again then. Ok, so you said you had then wetlands, or Land Management come out and...

Mr. Cardinal: Identify the wetlands.

Vice-chairman Pacula: ...delineate the wetlands? Do we have that wetland delineation map?

Mr. Weeks: I can answer that. Typically what Land Management does, they go out and do pre-flagging.

They assess the wetlands, where they think the wetlands are. At that point in time, once development occurs, they're going to have to go ahead and delineate the wetlands, pick them up with flags and surveying and then submit those to the Corps, the Corps site visit and then we have our approval. That has to happen before any development activity happens.

Vice-chairman Pacula: Okay. So, I'm just concerned then with her testimony, looking at Parcel B, that it's kind of surrounded by wetlands, and if that's one that's being filled, and it's already flooding, that if that's part of the acreage that's going to be filled, from the 44 down to the thirty, or 24...

Mr. Cardinal: Actually, on our concept plan, we aren't filling any wetlands. They're, all the areas on our concept plan are all uplands. We don't factor in, I try to wetlands at all costs.

Mr. Weeks: We would have to obtain all state permits...

Vice-chairman Pacula: Yeah.

Mr. Weeks: through the Corps for that. It's the intent to leave the wetlands intact, but when you have a 500-year event, and it's unfortunate when you see water like that, but it carries a lot of debris as well, and the debris settles and it impedes flow, and so, that's just a very unfortunate situation, um, for her.

Mr. Cardinal: We actually just, we just actually had an issue with that at our Ocean Isle Palms. We found out when it flooded back on our property that there were actually three beaver dams that were built and that's what caused it to flow up.

Vice-chairman Pacula: Well then I guess I am more confused then with the open space being 24 acres and wetlands being 44, but that's for...

Mr. Weeks: I can, I'll attempt to answer that. In the ordinance we're required to provide 15 percent gross site acreage of open space, so that equates to that get number of 24 acres. Um, wetlands can be used as part of that open space. But again, this plan as it's requested before you, is use and density. You'll get

another look at how we integrate the open space into the project. And basically, at the end of the project, we will have to adhere to that 24 and some change acres as part of the approval process.

Vice-chairman Pacula: Okay.

Mr. Cardinal: There's a lot, there's a lot of [unintelligible] behind the scenes which are going to, the land planning is actually doing a site-specific plan to lay out where your ponds go and where that, where that needs to happen based on your topography, or based on the unit type that you're going to put, so that's something that we really haven't gotten into yet, cause that's going to go onto a more specific site plan.

Vice-chairman Pacula: Okay.

Chairman Manos: Any other questions, members of the Board? Any other persons desire to testify? Come forward.

Mr. Vares: Do we need to swear her in?

Chairman Manos: No, she's already been sworn in.

Mr. Vares: Okay.

Chairman Manos: State your name please and give us your address.

Susan Colby: My name is Susan Colby. My address is 2768 Greenwood Circle SE, Bolivia post office, but we are in the Town of Oak Island.

Chairman Manos: Alright. Ms. Colby. What would you like to talk about?

Ms. Colby: I'd like to talk about two things if I may. I am a biologist and a small business owner. As a biologist I am concerned about wetlands. I have had three properties in that area delineated and certified by the Corps of Engineers for 404 wetlands. I've been a resident there 40 years or so and ridden horses all over that area which is currently being considered. It's basically scrub pine and Carolina Bays, and I am hoping that the Carolina Bays can be preserved because they are essential for water control and flood management. We currently have waterfront property, and it's not the first time. All of that area is very subject to flooding, and it does flow, water does flow from the back of our property, which would be the edge of what you're looking at, to the highway. The highway ditches are currently flooded, stopped up and all of that, and that's another story. But the water management, water control, is an issue. SO that's from the biology standpoint. From the small business...

Chairman Manos: Ms. Colby for the purposes of the record, is your property to the east of Section C, of, C pod?

Ms. Colby: Our property, if you look at what he's calling C...

Chairman Manos: I mean, to the east of C pod.

Ms. Colby: We're on the east of that.

Chairman Manos: Okay. And directly underneath Tract A and Tract B? Or do you own Tract A and Tract B?

Ms. Colby: We own property on both sides of the highway there, but if you look at the little corner here and this way. The property where the dentist is now...

Chairman Manos: Yeah.

Ms. Colby: ...that's property which we sold to him, so we currently do not own that...

Chairman Manos: Okay.

Ms. Colby: ...but we own to the right of that all along the highway there.

Chairman Manos: Alright.

Ms. Colby: ...almost to, uh, Middleton.

Chairman Manos: Alright. I didn't mean to interrupt you. I just wanted to, uh, to identify specifically where your, where your property was. When you say you currently have waterfront property, are you talking about along 211?

Ms. Colby: I am talking about the flooding, which basically is that whole section, from Mosquito Branch all the way up to almost to Middleton.

Chairman Manos: But you're talking about along 211.

Ms. Colby: Yes. Well, along 211 and back.

Chairman Manos: How far back?

Ms. Colby: My whole property is...

Chairman Manos: Okay.

Ms. Colby: ...very wet...

Chairman Manos: Okay.

Ms. Colby: very soggy...

Chairman Manos: Alright.

Ms. Colby: ...as is a lot of the property including a lot that's currently being considered here.

Chairman Manos: Okay.

Ms. Colby: The other thing that I'd like to mention is that as a small business owner, I have two enterprises. One is Greenwood Pet Camp. Um, and, just for information, as far as your due diligence is concerned, we have as many as 50 or 60 dogs on occasion that board with us. And they bark. We have indoor/outdoor runs, which is great for the dogs because they get a lot of exercise and fresh air. But it also means that when they bark, you might hear them. Now, we have buffers, vegetation buffers, uh, but I would suggest that in addition to considering that there's wetlands all around us, um, if you want to put housing in that area, you might want to increase your buffer zone.

Chairman Manos: Ok, so Greenwood Pet Camp is on the property, uh, in the area where the L, uh, comes behind C?

Ms. Colby: It's just about, you see this little square, it's actually showing up on your map but not very well...

Chairman Manos: Okay.

Ms. Colby: ...and above the A and the L you see a little tiny square.

Chairman Manos: Got it.

Ms. Colby: That is the one acre which belongs Pet Camp LLC, which is, uh, where the pet camp is located. Uh, the surrounding 18 or so acres, where our house is, and, is basically, um, tree farm and woods and buffer for us.

Chairman Manos: And you board you said 30 dogs?

Ms. Colby: We board lots of dogs. I'm saying maximum, um, average is probably about 35 dogs per night, but we could double that for holidays and hurricanes. So...

Chairman Manos: And I'm sure the developers appreciate the information.

Ms. Colby: I think it's important. The other thing, um, which does not directly deal with this side of the highway, but I think that we should all be aware of, is that directly across the road from that is Ant Hill Shooting Range, which belongs to Make My Day LLC, and...

Chairman Manos: Do they use .44s?

Ms. Colby: We use whatever folks want to use. There are numerous ranges there, and they do have, it's a private shooting club, which leases use of the property from me. Um, they, I've been in business as pet camp for about 35 years and the range, Ant Hill, has been in operation about 25 years. And they do shoot, sometimes a lot, so that's another thing that people need to be aware of in considering where you want to put your residential property.

Chairman Manos: Okay.

Ms. Colby: That's it.

Chairman Manos: Any, uh, does the applicant wish to cross-examine the lady?

Mr. Cardinal: No.

Chairman Manos: And members of the Board have questions? Thank you very much.

Ms. Colby: Alright. Thank you.

Chairman Manos: Are there any other persons who would wish to testify who have been previously sworn? Any who have not been previously sworn and would like to testify?

Mr. Edes: I have one question for the applicant. I'm not sure how the agenda packet's considered. The packet I received was via email. It obviously didn't include these colored maps.

Chairman Manos: We have those in the packets, including color maps.

Mr. Edes: So when they move that in, this will be part of the exhibits, is that...

Mr. Vares: Correct.

Mr. Edes: ...everybody's understanding? Okay. Thank you. Thank you Mr. Chair.

Chairman Manos: Any, I'm going to therefore close the uh, Public Hearing at, well I don't know, yeah, I'm going to close the Public Hearing at this time, and ask if there are any motions to be made by members of the Board.

Ms. Stites: Chairman Manos, I believe you'll need a motion to close the Public Hearing.

Chairman Manos: Okay. Give me, to close the Public Hearing, I'd like a motion to close please.

Ms. Bowes: I make a motion to close the public hearing.

Ms. Cashwell: Second it.

The motion to close the Public Hearing passed unanimously at 12:14 p.m.

Mr. Edes recapped the evidence and listed the exhibits, which were admitted without any objections. He reminded the Board that only the evidence presented should be considered.

Chairman Manos said in recommending approval of the Conditional Use Permit, the Board must find that the use will not materially endanger the public health or safety if located where proposed, that the use meets all the required specifications, that the use will not substantially injure the value of the adjacent property or that the use is a public necessity and that the location and character of the use will be in harmony with the area and is in general conformity with the Land Use Plan (LUP). Chairman Manos said in his opinion, the four findings of fact were met. Stormwater issues would be addressed when a specific site plan is brought forward, he noted.

**Vice-chairman Pacula made a motion to approve the PUD application with two years of vested rights with the opportunity for an additional five years. Mr. Germaine seconded the motion and it passed unanimously.**

Mr. Vares said that the statutes mandate that the Board to adopt the findings of fact. He offered a proposed statement, which Chairman Manos read into the record; a signed copy of the statement is attached and is hereby made a part of these Minutes. **Ms. Bowes made a motion to approve the Findings of Fact as presented. Mr. Carpenter seconded and the motion passed unanimously.**

Mr. Vares noted that a motion to approve the consistency statement for the text amendment done earlier in the meeting was also needed. **Ms. Cashwell made a motion to adopt the statement of planning consistency, Vice-chairman Pacula seconded and the motion passed unanimously.** Mr. Edes was then excused from the meeting.

Staff Reports: Mr. Vares said that he included a Future Land Use Map in the agenda packet, just for information. A new one will probably be adopted through the work with Holland Consulting but he wanted the Board to be familiar with the existing one (from 2009). Answering a question from Chairman Manos, Mr. Vares said the Future Land Use Map is the "heart and soul" of a comprehensive land use plan. It shows what future developments and land uses are wanted throughout the municipality and it's created by analyzing the existing adopted policies, public comments and desires, zoning, existing land use, etc. The Board discussed some of the differences between existing zoning and the Future Land Use map. Mr. Vares explained that the map does not change existing zoning. Following Board discussion about why property north of N.C. 211 was included when it is not in the Town limits, Mr. Vares said the map includes a study area. Ms. Cashwell said that the property on the map around the N.C. 133 and N.C. 211 was in the Town limits, Chairman Manos and others said it is not.

Mr. Vares also noted that the Pacula Mare subdivision permit was extended for five years by Town Council. There will be a second public hearing at the November Council meeting on the rezoning request on East Yacht Drive.

Lynn Gulledge, SW 5<sup>th</sup> Street: Ms. Gulledge said she attended the October Council meeting. She said there was some opposition to the East Yacht Drive rezoning request. She said the opposition petition included signatures from Beaver Creek property owners. She asked if Beaver Creek was part of the Town. Ms. Cashwell said that was part of Oak Island. Ms. Stites said that the only development on Airport Road in the Town limits was Oakwood Glen. Ms. Gulledge questioned why information wasn't made available to the public about what was being requested in the rezoning. Ms. Stites noted that the Council agenda packets were made available to the public at locations in town and on the Town's website. Ms. Gulledge and the Board disagreed about what the developer was actually requesting and also discussed who had provided what map.

**Ms. Cashwell made a motion to adjourn at 12:46 p.m. Ms. Bowes seconded and the motion passed unanimously.**

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Chairman Ted Manos

Attested: \_\_\_\_\_  
Lisa P. Stites, CMC  
Town Clerk

**TOWN OF OAK ISLAND**  
**PLANNING BOARD**  
**AGENDA ITEM MEMO**

Agenda Item: New Business Item No. 1

Date: October 29, 2015

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**Issue:** Text amendment to the CUP Process

**Department:** Planning & Zoning Administrator

**Presented by:** Jake Vares

**Presentation:** None

**Estimated Time for Discussion:** 15 Minutes

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**Subject Summary:**

Staff is recommending a text amendment to *Section 18-223. - Steps to be taken in a conditional use application other than unified tract developments*. That section states that the Planning Board reviews Conditional Use Permits (CUP's) during a quasi-judicial process and makes a recommendation to the Town Council. The process of having both the Planning Board and the Town Council review a CUP in a quasi-judicial hearing is highly unusual compared to other municipalities and is an undue burden on the applicant. Furthermore, it creates a higher risk of administrative error and leaves the Towns final decision more open to successful appeals.

Rather than continuing with the current CUP process mandated by the Zoning Ordinance, staff recommends an alternative more common process. The Planning Board would still review Conditional Use Permits as well as the entirety of the CUP application requirements (Sec. 18-222): the form, site-plan, plat, summary, etc.... that must be submitted in full by the applicant would still have to be submitted and reviewed by the Planning Board. The Planning Board should not make a recommendation to approve or deny a CUP because the process is not the same. The applicant is not under oath, giving official testimony or entering evidence into the record. Since the Town Council quasi-judicial ruling is a public hearing, where all the facts of the case have to be heard only then in the open and the decision has to be based on the facts then, the Planning Board cannot make a recommendation on whether standards have been met or not if they are not at the hearing where the standards are discussed. The Town Council, the Planning Board, and the applicant all need to understand that the Planning Board is not making a recommendation to approve or deny but rather just stating what some of the considerations to take into account are. The Planning Board recommendation should be changed to considerations for the Town Council to deliberate when reviewing the issues in the CUP application. With this new process the adoption of the finding of facts would no longer be required once this text amendment is implemented since the quasi-judicial process would be removed from the Planning Board.

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**Attachments:** Proposed text amendment

**Recommendation/Action Needed:** Discussion and motion of recommendation to Town Council

**Suggested Motion:** Recommend approval of text amendment

**Funds Needed:** \$0.00

**Follow Up Action Needed:** Forward recommendation to Town Council for approval or denial.

## **Attachment**

### **Proposed text amendment**

#### **Sec. 18-223. - Steps to be taken in a conditional use application other than unified tract developments.**

(a) The planning board shall review each conditional use request, and recommend the following:

- (1) Approval;
- (2) Approval with conditions;
- (3) Denial.

~~(a1) When deciding on conditional use permits, the planning board and the town council shall follow quasi-judicial procedures.~~ When deciding on conditional use permits the planning board shall review the conditional use permit application and provide the Town Council with considerations regarding the issues in the conditional use permit. The Town Council shall follow quasi-judicial procedures.

(b) The owner of the property under consideration and all owners of property within 100 feet of the property subject to the conditional use application shall be mailed notice of the filing by first class mail at least ten, but not more than 25 days prior to the date of the initial planning board review. The property will also be posted at least ten, but not more than 25 days with a sign describing the date and time of the hearing. The planning board shall have 45 days from the date on which the request is initially reviewed to make a recommendation to the town council. If the planning board fails to submit a recommendation within a 45-day period, it shall be deemed to have made a favorable recommendation unless a longer time period is granted by the town council.

(c) The town council, after receiving a recommendation from the planning board, shall hold a public hearing on the conditional use request. When deciding on conditional use permits, the town council shall follow quasi-judicial procedures. No vote greater than a majority shall be required for the issuance of permits. Every decision of the town council shall be subject to review of the superior court in the nature of certiorari in accordance G.S. 160A-388. Notice of such hearing shall be mailed to the applicants by first class mail at least ten, but not more than 25 days prior to the hearing date. The following procedures shall govern the public hearing and the decision to grant or deny the conditional use permit:

**TOWN OF OAK ISLAND  
PLANNING BOARD  
AGENDA ITEM MEMO**

Agenda Item: New Business Item No. 2

Date: November 3, 2015

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**Issue:** Variance Footnote Text Ammendment

**Department:** Planning & Zoning Administrator

**Presented by:** Jake Vares

**Presentation:** None

**Estimated Time for Discussion:** 15 Minutes

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**Subject Summary:**

Staff is recommending a text amendment to *Section 18-117. – Area and height table; residential districts- footnote (g)(2)* and *Section 18-118. – Area and height table; nonresidential districts-footnote (g)(2)*. That section currently states that the Town of Oak Island Board of Adjustment should not follow the General Statutes (G.S) required findings of facts only when deciding cases about elevators, mobility and cargo lifts on existing residential structures. The exact wording of the General Statute is:

**§ 160A-388. Board of adjustment.**

(d) *VariANCES. - When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the board of adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:*

- (1) *Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.*
- (2) *The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.*
- (3) *The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.*
- (4) *The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.*

The current wording in footnote (g)(2) goes counter to state law. The Town is allowed to be more restrictive than the state with its development codes but cannot counteract the General Statutes. The “five” findings of facts that is referenced in the footnote isn’t even accurate, the GS’s list four finding of facts. Furthermore, the text is contradictory; the first sentence is saying that it is already allowable while the second sentence states a variance is required, and a variance is only for situations where a proposed use/structure is not allowable.

The proposed revised footnote text fixes this problem while properly addressing what the footnote was originally intended for. Five foot encroachments in the front and rear yard are allowable and exempt for new elevators, mobility or cargo lifts on existing structures, while other locations may require a variance. With this new process the variance request application would no longer be required for new elevators, mobility or cargo lifts on existing structures in the front and rear yard, once this text amendment is implemented.

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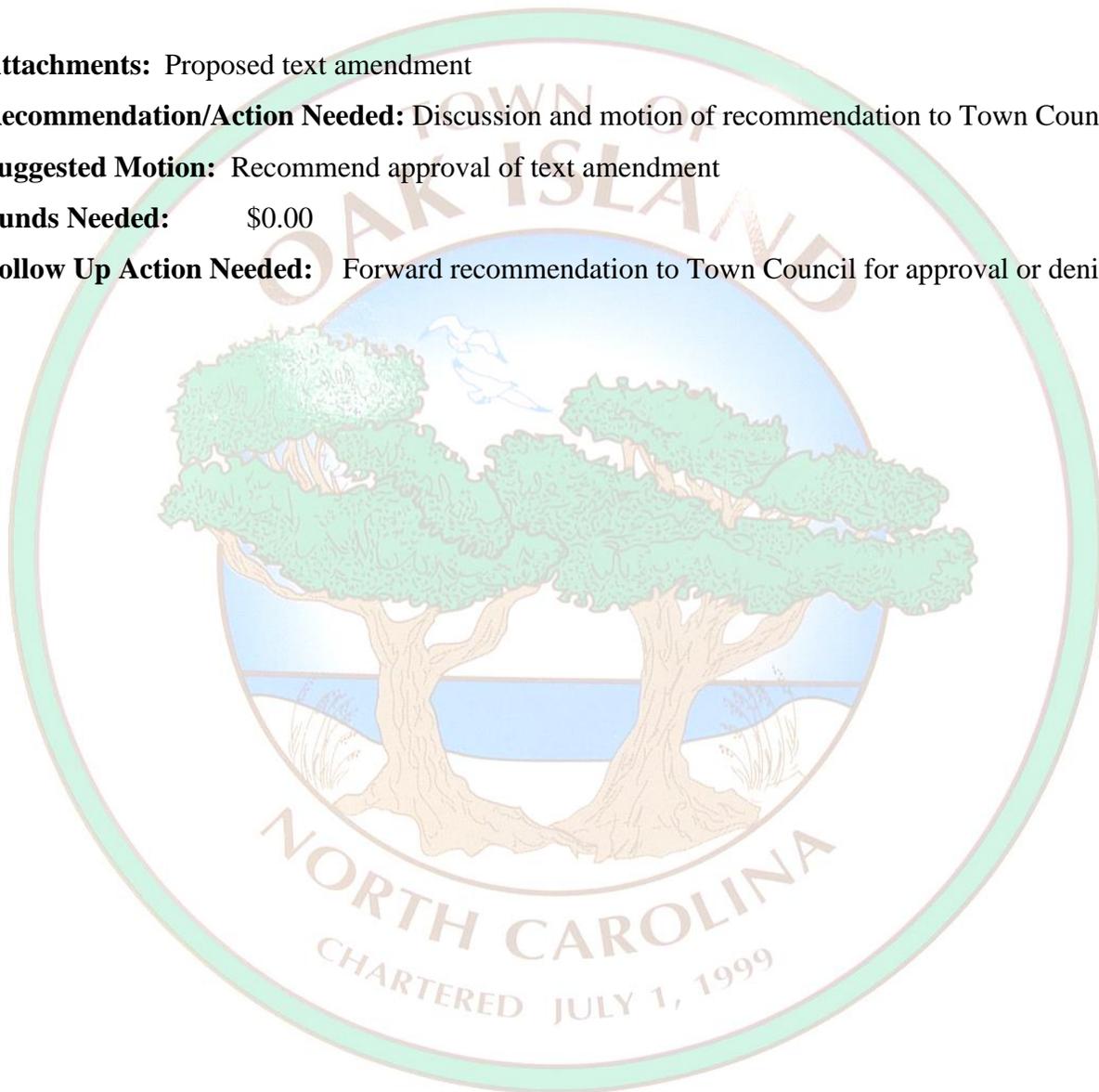
**Attachments:** Proposed text amendment

**Recommendation/Action Needed:** Discussion and motion of recommendation to Town Council

**Suggested Motion:** Recommend approval of text amendment

**Funds Needed:** \$0.00

**Follow Up Action Needed:** Forward recommendation to Town Council for approval or denial.



## Attachment

### Proposed text amendment

#### Section 18-117. – Area and height table; residential districts

(g)

~~2. New elevators, mobility and cargo lifts on existing residential structures may encroach up to five feet into the required rear setback, up to five feet into the required front setback, and may also encroach up to five feet in to the required side yard setback only if approved by the board of adjustment. The board of adjustment shall not be required to use the five findings of facts with the variance/appeal process, and, where peculiar characteristics in the front or rear setback requirements are clearly unrealistic, the board of adjustment is authorized to approve the use in the side setback after application and review.~~ New elevators, mobility or cargo lifts on existing residential structures may encroach up to five feet into the required rear setback, or up to five feet into the required front setback. The Board of Adjustment will review variance requests for proposed elevators, mobility and cargo lifts in any other areas of existing residential structures to determine if it meets the General Statute required findings of facts.

#### Sec. 18-118. - Area and height table; nonresidential districts.

(g)

~~2. New elevators, mobility and cargo lifts on existing residential structures may encroach up to five feet into the required rear setback, up to five feet into the required front setback, and may also encroach up to five feet in to the required side yard setback only if approved by the board of adjustment. The board of adjustment shall not be required to use the five findings of fact as with the variance/appeal process and may where peculiar characteristics in the front or rear set back requirements are clearly unrealistic, the board of adjustments is authorized to approve the use in the side set back after application and review.~~ New elevators, mobility or cargo lifts on existing residential structures may encroach up to five feet into the required rear setback, or up to five feet into the required front setback. The Board of Adjustment will review variance requests for proposed elevators, mobility and cargo lifts in any other areas of existing residential structures to determine if it meets the General Statute required findings of facts.

**TOWN OF OAK ISLAND**  
**PLANNING BOARD**  
**AGENDA ITEM MEMO**

Agenda Item: New Business Item No. 3

Date: November 4, 2015

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**Issue:** Impervious Surface Text amendment

**Department:** Planning & Zoning Administrator

**Presented by:** Jake Vares

**Presentation:** None

**Estimated Time for Discussion:** 20 Minutes

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**Subject Summary:**

Staff is recommending a text amendment to have 35% allowable impervious surface area in a BUA (built up area) for principal structures and accessory structures combined, plus an additional 10% allowable impervious surface for driveways & parking. This text amendment would belong in the stormwater section of the Zoning Ordinance. Currently, there is not a set percentage for impervious surface set by the stormwater ordinance and this text amendment, if adopted, would establish the maximum percentage. A built upon area (BUA) is defined as *“That portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. “Built-upon area” does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.”* Sec. 18-683

The attached text amendment also requires the applicant to identify impervious surface areas to be shown in site-plans when applying for stormwater approval (Sec.18-663). It should also be noted that impervious surface areas do not have to be shown in vegetation plans if it is for an agricultural activity where no additional impervious surface area is created (Sec. 32-74). Adopting this text amendment will help issues with stormwater runoff and nonpoint and point source pollution associated with new development and redevelopment. Proper management of construction-related and post-development stormwater runoff, by setting this impervious surface percentage, will minimize damage to public and private property and infrastructure; safeguard the public health, safety, and general welfare; and protect water and aquatic resources.

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**Attachments:** Proposed text amendment

**Recommendation/Action Needed:** Discussion and motion of recommendation to Town Council

**Suggested Motion:** Recommend approval of text amendment

**Funds Needed:** \$0.00

**Follow Up Action Needed:** Forward recommendation to Town Council for approval or denial.

# Attachment

## Proposed text amendment

### Sec. 18-669. - Standards for limited residential development.

Residential development activities that:

- (1) Disturb less than one acre of land;
- (2) Are located within one-half mile of and draining to shellfishing waters;
- (3) Have a built upon area greater than 12 percent; and
- (4) Will add more than 10,000 square feet of built upon area, must obtain a one-time nonrenewable stormwater management permit. Stormwater runoff generated by 1.5 inches of rainfall shall be managed using any one of the following:
  - a. Install cisterns to collect rooftop runoff and permeable pavement;
  - b. Install rain garden for rooftop runoff and permeable pavement, or
  - c. Install any other type of stormwater BMP (e.g., infiltration in sandy soils) to control and treat runoff.

(5) Maximum coverage by total impervious surfaces shall be 35 percent of the total lot area, including both principal structures and accessory structures, for residential developments. An additional 10 percent impervious surfaces area is allowable for driveway and parking areas.

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### Sec. 18-663. - Applications for approval.

To accomplish this goal, the following information should be included in the concept plan, which should be submitted in advance of the meeting:

- (1) *Existing conditions/proposed site plans.* Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys (if available); boundaries of existing predominant vegetation; proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.
- (2) *Natural resources inventory.* A written or graphic inventory of natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, geologic features, topography, wetlands, and native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as natural heritage areas, lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development and stormwater management.
- (3) *Stormwater management system concept plan.* A written or graphic concept plan of the proposed post-development stormwater management system including: preliminary selection and location of proposed structural stormwater controls; low-impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of any proposed stream channel modifications, such as bridge or culvert crossings. The applicant must show on the site-plan the labeled total impervious surface area the proposed development would create so that the stormwater administrator can verify that it will not exceed the allowable maximum coverage.

**TOWN OF OAK ISLAND**  
**PLANNING BOARD**  
**AGENDA ITEM MEMO**

Agenda Item: New Business Item No. 4

Date: November 4, 2015

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**Issue:** Bedrooms

**Department:** Planning & Zoning Administrator

**Presented by:** Jake Vares

**Presentation:** None

**Estimated Time for Discussion:** 20 Minutes

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**Subject Summary:**

Newly enacted legislation specifies that North Carolina and local governments do not have the authority to limit the amount of bedrooms. Historically, zoning ordinances have addressed this sort of thing but due to considered increased government overreach the general assembly has implemented new laws to restrict a local government's ability to regulate housing features. The new law adds new subsections to G.S.160A-381. The new law applies to one- and two-Family Dwellings, all single family homes, duplexes, and townhouses. The restrictions do not apply to multifamily and non-residential buildings. Private restrictive covenants can still dictate architectural review for single family homes.

The specific regulation prohibitions listed in the new law cover:

- 1) Exterior building color;
- 2) Type or style of exterior cladding material;
- 3) Style or materials of roofs or porches
- 4) Exterior nonstructural architectural ornamentation;
- 5) Location or architectural styling of windows and doors, including garage doors;
- 6) Location of rooms; and
- 7) Interior layout of rooms.

Local governments no longer have the authority to tell homeowners what color their house can be painted, what materials can be used for their windows and siding, or what architectural style must be used for a new house. Due to a recent court case the number of bedrooms is no longer under the purview of local government regulation. Construction must still meet all building code requirements and if the structure is indeed put to a use that is not allowed, zoning enforcement is appropriate at that time. Our Zoning ordinances can still, and does, set height and size limits for structures and specify where on a lot structures may be located and setbacks. Zoning statutes expressly authorize cities and counties to regulate "the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts, and other open spaces, the density of population, the location and use of buildings, structures and land." G.S. 160A-381. These development codes still give the Town authority to those features of development that effect the amount of bedrooms a house could have.

Our Zoning Ordinance currently defines bedrooms as *“any fully enclosed interior room as shown on the building plan for the structure that as a minimum has a doorway, window, or is adorned with a bathroom and a room that may be advertised as a bedroom.”* Sec. 18-32. And single-family as *“a detached building designed for or occupied exclusively by one family having no more than seven bedrooms and a maximum square footage that shall not exceed 5,000 square feet.”* Sec. 18-32 The Town of Oak Island zoning ordinance limits single family to seven bedrooms and staff is proposing that language be removed, but the maximum square footage of 5,000 remain.

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**Attachments:** Proposed text amendment

**Recommendation/Action Needed:** Discussion and motion of recommendation to Town Council

**Suggested Motion:** Recommend approval of text amendment

**Funds Needed:** \$0.00

**Follow Up Action Needed:** Forward recommendation to Town Council for approval or denial.

## **Attachment**

### **Proposed text amendment**

#### **Sec. 18-32. Definitions**

Dwelling, single-family means a detached building designed for or occupied exclusively by one family ~~having no more than seven bedrooms~~ and a maximum square footage that shall not exceed 5,000 square feet.